

FILED 02/24/2014 1:40:44 PM
SHERRI ADELSTEIN
Denton County District Clerk
By Joanne Price, Deputy

CAUSE NO. 14-00498-393

ADRIAN BECK AND)	IN THE DISTRICT COURT
TANISHA BECK)	
Plaintiffs,)	
)	_____ JUDICIAL DISTRICT
v.)	
)	
SANTANDER CONSUMER USA INC.)	
Defendant.)	DENTON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

I. DISCOVERY CONTROL PLAN

1.1 Discovery in this case is intended to be conducted under level I of rule 190 of the Texas Rules of Civil Procedure.

II. PARTIES

- 2.1 Plaintiffs are Adrian Beck and Tanisha Beck who are residents of Denton County, Texas.
- 2.2 Defendant, Santander Consumer USA, Inc, an Illinois Corporation, which may be served by and through its registered agent, CT Corporation System, at 1999 Bryan Street, Suite 900, Dallas, TX 75201.
- 2.3 Jurisdiction is appropriate in this Court pursuant to 15 U.S.C. § 1692k(d) which permits a claim for enforcement of the Fair Debt Collection Practices Act to be brought in any court of competent jurisdiction which includes, but is not limited to, this Court. Jurisdiction is similarly appropriate in this Court with respect to Plaintiff's claim under the Texas Debt Collection Act.
- 2.4 Venue is appropriate in this Court because Plaintiff seeks recovery of monetary damages within the jurisdictional limits of this Court, because the circumstances giving rise to this cause of action occurred in Denton County, Texas, and because Defendant has transacted business in this county. Specifically, Defendant has collected or attempted to collect

consumer debts from residents of Denton County, Texas.

III. FACTS

(Fair Debt Collection Practices Act)

- 3.1 Plaintiffs are natural persons residing in Travis County, Texas. Plaintiffs are also consumers as the term is defined in 15 U.S.C. § 1692a(3). See also: Tex. Fin. Code § 392.001(2)
- 3.2 Defendant, Santander Consumer USA Inc. is a debt collector at the term is defined in 15 U.S.C. § 1692a(6). See also: Tex. Fin. Code § 392.001(3).
- 3.3 Plaintiff's purchased a 2003 Ford Expedition financed by Defendant in August of 2007. As of the date of filing this petition, Plaintiffs have overpaid for the vehicle in the amount of significantly over \$
- 3.4 On January 24, 2014, Plaintiffs received the notice attached hereto as Exhibit "A" and incorporated by reference herein from Defendant or its agent.
- 3.5 Defendant has violated the Fair Debt Collection Practices Act by:
 - (a) using or threatening the use of criminal means to harm the physical person, reputation, or property of any person.
 - (b) falsely representing or implying that the it is affiliated with the court or law enforcement agency of the State of Texas.
 - (c) falsely representing the character, amount, or legal status of a debt;
 - (d) stating or implying that non-payment of a debt will result in arrest or imprisonment:
 - (e) threatening action that can not legally be taken or which Defendant has no intention of taking:

- (f) falsely representing that the Plaintiffs have committed a crime with the intention of disgracing Plaintiff;
- (g) use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval; and
- (h) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

3.6 Plaintiff has been injured as a result of Defendant's wrongful conduct in an amount that is within the jurisdictional limitations of this Court.

(Texas Debt Collection Act)

3.7 Defendant is a debt collector as defined by Tex. Fin. Code § 392.001.

3.8 Defendant committed the following wrongful acts against Plaintiffs in violation of the Texas Debt Collection Act:

- (a) using or threatening the use of criminal means to harm the physical person, reputation, or property of any person;
- (b) falsely accusing or threatening to accuse a person of fraud or another crime;
- (c) threatening to prosecute;
- (d) threatening Plaintiffs with arrest for nonpayment of a consumer debt without proper court proceedings;
- (e) threatening to file a charge, complaint, or criminal action against Plaintiffs when Plaintiffs have not violated a criminal law;

- (f) Using a name other than the true business, professional, personal, or legal name of the debt collector while engaged in debt collection;
- (g) Using a written communication that does not clearly indicate the debt collector's name, street address or post office box, and telephone number;
- (h) Misrepresenting the character, extent, or amount of a consumer debt;
- (i) Falsely representing that a debt collector is affiliated with the State of Texas; and
- (j) Using and distributing a written communication that simulates or falsely appears to be a document issued, authorized, or approved by a court;

3.9 Plaintiffs have been injured as a result of Defendant's wrongful acts.

IV. DAMAGES AND ATTORNEY FEES

- 4.1 Plaintiffs seeks recovery of his actual damages as well as unliquidated damages for mental anguish and harm to his credit reputation.
- 4.2 Plaintiffs seeks recovery of \$1,000.00 in additional damages pursuant to 15 U.S.C. § 1692k(a)(2)(A).
- 4.3 Plaintiffs seeks recovery of at least \$100,000.00 in exemplary damages as authorized by the Texas Damages Act. Tex. Civ. Prac. & Rem. Code § 41.002..
- 4.4 Plaintiffs seeks recovery of their attorney fees pursuant to 15 U.S.C. § 1692k(a)(3) and Tex. Fin. Code § 392.403(b).

V. PRAYER

- 5.1 Plaintiff prays that Defendant be cited to appear and answer and that, upon final trial of this action, Plaintiff be awarded damages and attorney fees as plead in paragraphs 4.1 – 4.4 above, the Plaintiff be awarded pre-judgment and post-judgment interest at the highest rates permitted by law, and that Plaintiff be granted all such further relief, in law

and in equity, to which he may show herself to be justly entitled.

Respectfully submitted,

The Van Dyke Law Firm P.L.L.C.

/s/ Jason Lee Van Dyke

Jason L. Van Dyke

State Bar No. 24057426

Adam M. Swartz

State Bar No. 24088493

200 Chisholm Place, #250

Plano, TX 75075

P – (469) 964-5346

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Email: jason@vandykelawfirm.com

EXHIBIT “A”

FINAL NOTICE

NOTICE OF NON COMPLIANCE

HINDERING A SECURED CREDITOR

Name: Adrian Beck Collateral: 2003 Ford Expedition

Chapter 32 of Texas Penal Code - Section 32.33 - For purpose of this section:

(1) "Remove" means transport, without the effective consent of the secured party, from the state in which the property was located when the security interest or lien was attached;
(2) "Security interest" means an interest in personal property or fixtures that secures payment or performance on an obligation.

(a) A person who has signed a security agreement creating a security interest in property or mortgage or deed of trust creating a lien on property commits an offense if the intent to hinder enforcement of that interest or lien, he destroys, removes, conceals encumbers, or otherwise harms or reduces the value of the property. For purpose of the section, a person is presumed to have intended to hinder enforcement of the security interest or lien if, when any part of the debt secured by the security interest or lien was due he failed:

- (1) to pay the part then due, and
- (2) if the secured party had made demand, to deliver possession of the secured property to the secure party.

(b) An offense under Subsection (b) is a:

- (1) State jail felony if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced is \$1500.00 or more but less than \$20,000.00.
- (2) Felony of the third degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$20,000.00 or more but less than \$100,000.00.

(c) A person who is a debtor under a security agreement, and who does not have a right to sell or dispose of the secured property or is required to account to the secured party for the proceeds of a permitted sale or disposition, commits an offense if the person sells or otherwise disposes of the secured property, or does not account to the secured party for the proceeds of a sale or other disposition as required, with intent to appropriate the proceeds if the person does not deliver the proceeds to the secured party or account to the secured party for the proceeds before the 1st day after the day that the secured party makes a lawful demand for the proceeds or account. An offense under this subsection is:

- (1) State jail felony if the proceeds obtained from the sale or other disposition are money or goods having a value of \$1,500.00 or more but less than \$20,000.00.
- (2) Felony of the third degree if the proceeds obtained from the sale or other disposition are money or good having a value of \$20,000.00 or more but less than \$100,000.00.

This 22nd day of January, 2014

Please Call: Investigator W. Cockrell 214-762-9012

**IT IS VERY IMPORTANT FOR YOU TO CONTACT ME
WITHIN 24 HOURS OF THIS NOTICE. FAILURE TO
COMPLY WILL RESULT IN POSSIBLE CHARGES BEING
FILED AGAINST YOU**

63rd District Court
Dallas County

Court Room LB13

Denton County District Clerk

Ph: 940-349-2200

E-FILING REQUEST FOR ISSUANCE

- ❖ This document MUST be filed as a separate LEAD document when e-filing.
- ❖ Choose the filing code "Request for Issuance of" and add the type of issuance in the description field.
- ❖ Select the type of issuance using the "Optional Services" section on the e-filing screen
- ❖ If a service document is required, you must add the "Copies for Service" and enter the number of pages the clerk needs to print. (Ex: Petition is 5 pages, 3 citations are requested: 5 x 3 = 15 pages will need to be printed by the clerk)

Cause No. 14-00498-393Document to be served: Citation and Original PetitionStyle of Case: Adrian Beck, et al v Santander Consumer USA Inc

Please use this form when requesting issuance of the below

listed types of issuance through the e-filing system.

Please use other request forms for: Abstracts, Executions, Subpoenas and Order Withholdings

Please select the type and quantity of issuance(s) needed:

Type	Amt	Quantity	Type	Amt	Quantity
Citation	\$8	1	Show Cause Notice	\$8	
Citation for Foreclosure	\$46		Temporary Restraining Order	\$8	
Commission	\$8		Writ: Attachment	\$8	
Expunction Notices: Petition & Order	\$11		Writ: Certiorari	\$8	
Expunction Notices: Amended Petition	\$5		Writ: Commitment	\$8	
Expunction Orders: Amended Orders	\$6		Writ: Garnishment	\$8	
Letter Rogatory	\$8		Writ: Other	\$8	
Notice	\$8		Writ: Possession	\$8	
Precept	\$8		Writ: Sequestration	\$8	
Scire Facias	\$8		Writ: Turnover	\$8	

Note: **PUBLICATION COSTS** – If publication is requested in the Denton Record Chronicle, we will provide your contact information to the Denton Record Chronicle for billing.

Name of party to be served: Santander Consumer USA Inc Type: Citation
 Address for service: c/o CT Corporation System, 1999 Bryan St, #900, Dallas, TX 75201

Name of party to be served: _____ Type: _____
 Address for service: _____

Please attach additional pages if there are more parties to be served.

******* Check one of the options below for your preferred service method *******

- ☒ Please hold at clerk's office. I will provide a file-marked copy of the service document and will
- _____ Forward it to the clerk (along with the service fee, if needed) for pick-up or Constable/Sheriff service.
- ☒ send a self-addressed stamped envelope with sufficient postage to: Denton County District Clerk; PO Box 2146, Denton, TX 76209 for the return of the issuance and service document(s).
- _____ Denton County Constable/Sheriff or certified mail service
- _____ Please pay for a copy or copies of the service document if any need to be attached to your requested issuance. Please be sure and add the correct service fee using the "Optional Services" feature when e-filing.

CITATION – Personal Service: TRC 99 and 106

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 14-00498-393

TO: Santander Consumer USA, Inc., by serving its registered agent, CT Corporation System, at 1999 Bryan Street, Suite 900, Dallas, TX 75201 (or wherever he/she may be found)

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Court:	393rd Judicial District Court 1450 E. McKinney, 4th Floor, Denton, TX 76209
Cause No.:	14-00498-393
Date of Filing:	January 24, 2014
Document:	Plaintiff's Original Petition
Parties in Suit:	Santander Consumer USA, Inc.; Adrian Beck; Tanisha Beck
Clerk:	Sherri Adelstein, District Clerk 1450 E. McKinney, Suite 1200, Denton, TX 76209
Party or Party's Attorney:	Jason Lee Van Dyke 200 Chisholm Place #250, Plano, TX 75075

Issued under my hand and seal of this said court on this the 27th day of January, 2014.



Sherri Adelstein, District Clerk
Denton, Denton County, Texas

Cameron Welter, Deputy
Cameron Welter

Service Return

Came to hand on the _____ day of _____, 20____, at _____ m., and executed on the _____ day of _____, 20____, at _____ M by delivering to the within named

_____ in person a true copy of this citation, with attached copy(ies) of the Plaintiff's Original Petition at _____

Service Fee: \$ _____ Sheriff/Constable
_____ County, Texas

Service ID No. _____ Deputy/Authorized Person

VERIFICATION

On this day personally appeared _____ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Denton County Courts to serve process.

Subscribed and sworn to before me on this the _____ day of _____, 20____

Notary Public

ORIGINAL



The Van Dyke

LAW FIRM

January 24, 2014

Denton District Clerk – Civil
1450 E. McKinney St
Denton, TX 76209

Re: Citations
14-00498-393

Dear Sir or Madame Clerk:

Please attach the citations we requested through e-filing to the enclosed copy of our original petition and return them to my attention in the enclosed postage-paid envelope for service.

I appreciate your courtesy and your prompt attention to this matter. Please do not hesitate to contact me with any questions or concerns you may have.

Very truly yours,

Jason L. Van Dyke
Attorney at Law, Receiver

FILED
DENTON COUNTY, TEXAS
2014 JAN 28 PM 1:14
CLERK

Completed by Clerk: LE

Completed by Clerk: Jep